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14 Attorneys for Plaintiffs Loretta Downs and
 15 D'Andre Parker and all others similarly situated

16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 SAN FRANCISCO DIVISION

19 LORETTA DOWNS and D'ANDRE PARKER,
 20 individually and on behalf of all others similarly
 situated,

21 Plaintiffs,

22 vs.

23 U.S. FOODSERVICE, INC.,

24 Defendant.

Case No.: 10-2163 EMC

**JOINT CASE MANAGEMENT
 CONFERENCE STATEMENT ; ORDER**

Date: May 18, 2011
 Time: 2:30 p.m.
 Ctrm: 2
 Hon. Edward Chen

1 Plaintiffs and Defendant jointly submit this Case Management Conference Statement, and
2 request a continuance of the Conference for the reasons stated below.

3 Several months ago, the parties agreed upon a Mediator, Jeffrey A. Ross, and a mediation date,
4 April 27, 2011. The parties worked cooperatively to exchange views and analyses in order to come to
5 mediation with full understanding of each others' positions. Specifically, pursuant to the parties'
6 agreement to exchange information prior to mediation, Defendant produced to Plaintiffs' counsel a
7 large volume of documentation and data concerning the itineraries, daily driver logs, and driving-time
8 records for an agreed-upon random sample of class members, for certain periods of time throughout
9 the class period that were selected by an agreed-upon method. Plaintiffs analyzed this data in
10 considerable detail, and as part of the pre-mediation discussions provided Defendants with an informal
11 report on the results of their analysis. The parties had a productive discussion of these results, and the
12 results of Defendant's parallel analysis of other similar data, prior to the scheduled mediation.

13 The mediation did not take place, however. U.S. Foodservice's decision-maker, who had been
14 designated to attend the mediation for Defendant and who was to carry settlement authority, could not
15 attend the mediation because she is leaving her employment with U.S. Foodservice. The parties have
16 attempted to re-schedule the mediation with Mr. Ross at the earliest date consistent with his
17 availability and that of a new, and fully-briefed, decision-maker for U.S. Foodservice. Although the
18 parties wish to conduct the mediation in June, Mr. Ross has no available dates consistent with the
19 parties' counsel's availability until August 17; and that date has been reserved for the mediation. The
20 parties have requested Mr. Ross to offer them any cancellation date that may come available to him in
21 June; but to date Mr. Ross has had no such cancellations. In the event that a June mediation date does
22 not become available. Plaintiff has proposed to Defendant that Class Counsel receive the updated
23 class list with contact information and has further proposed taking a deposition of Defendant on a
24 number of topics pursuant to Rule 30(b)(6).


25 Accordingly, the parties request that the Court continue the Case Management Conference until
26 approximately one month after the scheduled mediation date, or mid- September. This continuance
27 will provide time for the parties to complete the mediation and any short-term follow up necessary to
28 determine whether the case may be settled at this stage; and if it is settled, to complete the necessary

documents and to obtain a hearing date for the Plaintiffs' Motion for Preliminary Approval. The parties further request, in light of their ongoing cooperation and focus on preparing for a productive mediation, that the Court vacate any pending hearings and due or cut-off dates, including the hearing reserved for preliminary approval of any settlement on May 18, 2011 at 3:00 p.m.

Dated: May 11, 2011

Respectfully submitted,

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1 Dated: May 11, 2011

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15 IT IS SO ORDERED that the status conference set for 5/18/11 at 2:30 p.m. is reset
16 for 9/14/11 at 2:30 p.m. An updated joint status report shall be filed by 9/7/11.

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18 Edward M. Chen
19 U.S. Magistrate

